

Memorandum



Utah Department of Transportation Construction & Materials Division

DATE: August 4, 2008

TO: Resident Engineers, District Engineers

FROM: Kris T. Peterson, P.E.
Director Construction/Materials

SUBJECT: 08/04/08 Update on Contract Negotiations/Partnering Directions for Projects with Asphalt Shortages

As stated in my previous memorandum, dated July 25, 2008, the issues related to the asphalt shortages we are currently experiencing with our program are far reaching and change daily. This memorandum is being sent to give current direction on how the Department deals consistently with the impacts of the issue on a project by project basis.

First, in order to protect the Departments interest, all guidance given in these memorandums should only be acted upon after receipt of formal correspondence from the Contractor stating that they cannot meet their contractual obligations and are seeking relief from the contract due to situations outside of their control. Care should be taken to ensure that the Contractor is not using this issue to secure relief from delay associated with other items/phases of work that are within their immediate control.

A meeting was held last Friday, August 1, 2008 with UDOT Senior Leadership and the Region Directors. Based on the discussion and decisions made in that meeting, the Department has determined that is necessary to develop a re-prioritized project list consisting of all current projects. The projects should be categorized in the following categories:

1. Absolutely Imperative (Must complete this year)
2. High Priority (Must complete all but seal coats this year)
3. Priority (Complete if possible; post-pone project and complete next year by change order to current contract, if deemed to be in the best interest of the Department to retain current contract and Contractor.)
4. Low-Priority (Cancel contract and re-bid project)
5. Local Government Priority
6. Local Government Low-Priority

It has been determined that for projects in categories 1-3 the Department will participate in the additional costs to secure asphalt products currently identified as eligible for cost escalation in Section 01282 of the project specifications. The participation will be to the effect of 90% UDOT and 10% Contractor, of the additional costs. This potentially differs from the current specification regarding amounts eligible for compensation. We are still developing a process to ensure that all projects and Contractors are dealt with fairly and consistently across the board. We are also working to determine the proper method for documentation of the basis for increased cost eligible for compensation.

Regardless of the direction taken for any specific project, all determinations at the project level must be coordinated and approved by the Region Director.

At this point we have not determined the extent to which FHWA will participate with these determinations on Federal Aid projects. We are currently working with them to determine their level of participation on Federal Aid projects.

As stated before, this issue changes daily and we in particular anticipate further changes as we proceed this week. The target keeps changing and I appreciate your patience and willingness to work through this issue. More information will be forwarded shortly.

Please forward your prioritized lists ASAP to Larry Myers in the Central Construction Office. Larry will be working with us to help coordinate the project prioritization and change order processes.

KTP/kp

cc: Jim McMinimee, Carlos Braceras, Region Directors, Region Materials Engineers